

## **REMARKS**

Claims 1-12 are pending. In the Office Action mailed April 4, 2006, the Examiner objected to the drawings, and rejected Claims 1-12 under 35 U.S.C. §103(a). Each objection and rejection is addressed below.

### **I. Objection to the Drawings**

The Examiner stated, “The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because character ‘130’ has been used to designate both ‘rotation component’ and ‘connection joint’ in Fig. 1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 104.” Office Action, page 2. A replacement Figure 1 is now provided in compliance with 37 C.F.R. §§1.84(p)(4)(5).

### **II. Rejection of Claims 1-12 under 35 U.S.C. §103(a)**

Claims 1-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,337,737 (hereinafter, “the Rubin patent”) in view of U.S. Patent No. 5,503,619 (hereinafter, “the Bonutti patent”). In particular, the Examiner stated, “Rubin discloses an upper portion configured to attach to an upper arm, a lower portion configured to attach to a forearm. However, Rubin fails to specifically disclose a rotation component that exerts static progressive stretch upon the forearm. Bonutti, which also relates to an orthosis device, teaches that it is known in the art to incorporate a rotational component in such a device in order to exert static progressive stretch (Bonutti, col. 4., lines 56-67 and col. 6, lines 18-31). Thus, it would have been obvious to one skilled in the art at the time of the invention to incorporate the rotational components of Bonutti into the orthosis device of Rubin for the purpose of improving a patient’s therapy.” Office Action, page 3.

The Applicants respectfully disagree. The Examiner has not established a *prima facie* case of obviousness. First, neither the Rubin nor Bonutti patents, alone or in combination, teach or describe all of the elements of Claim 1. In particular, Claim 1 requires an orthotic forearm device comprising an upper portion, a lower portion, and “...a rotation component positioned

around said lower portion, wherein said rotation component is configured to exert static progressive stretch upon a forearm contained in said lower portion..." The cited references do not teach or describe an orthotic device having *a rotational component positioned around a lower portion* that is configured to exert static progressive stretch upon a forearm. As such, the cited references fail to render the claims of the present invention obvious.

In addition, there is no reasonable expectation of success that combination of the Rubin and Bonutti patents would result in the orthotic devices of the claimed invention. Claim 1 describes an orthotic device comprising a rotation component that exerts static progressive stretch *upon a forearm*. The Bonutti patent, on the other hand, only contemplates exertion of static progressive stretch *upon a wrist*. Indeed, the passages highlighted by the Examiner describe application state, "...it is believed that it may be preferred to use a static progressive stretch procedure during bending of the wrist..." (Bonutti patent, col. 4, lines 58-59) and "It is believed that a static progressive stretch procedure may be preferred for bending the wrist 80 in extension" (Bonutti patent, col. 6, lines 18-19). The Bonutti patent does not teach or describe orthotic devices configured to deliver static progressive stretch to regions other than a subject's wrist. Nothing in the Rubin or Bonutti patents contemplate that application of static progressive stretch to a subject's forearm would find therapeutic use. Neither patent provides any guidance for making or using an orthotic device configured to deliver static progressive stretch to a subject's forearm as there is no expectation, based on the teachings of the cited references, that static progressive stretch could be applied to a body region other than a wrist. As such, there is no motivation or reasonable expectation that combination of the Bonutti and Rubin patents would lead to the claimed invention. The Applicants request these rejections be withdrawn.

**III. Conclusion**

All grounds of rejection of the Office Action of April 4, 2006 have been addressed and reconsideration of the application is respectfully requested. Should the Examiner believe that a telephone interview would aid in the prosecution of this application Applicant encourages the Examiner to call the undersigned collect at (608) 218-6900

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